IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.237 OF 2006
IN
SUIT NO.1053 OF 2003

Mr.Sebastian Dias ..Plaintiff.

Vs.

Mr.Nelson Gonsalves & Ors. ..Defendants.

Mr.N.G.Raut for the Plaintiff.

Ms.Nadia Bhatia i/b.Mr.Prem Gidwani for Defendant Nos.1 to 4(d).

Mr.R.D.Suryawanshi for Defendant No.6.

CORAM : S.J. VAZIFDAR, J.
DATED : 10TH JULY, 2007

P.C. :

In the suit, the Plaintiff claims reimbursement of certain expenses allegedly incurred as a constituted attorney under the three powers of attorney executed by Defendant Nos.1, 2, 3 and original Defendant No.4, who were the owners of the property. They, in turn, have sold the property to Defendant No.5. Subsequently, the property is being developed now by Defendant No.6 under the S.R.A. Scheme.

2. Firstly, there is no charge in favour of the Plaintiff in respect of the suit property either under the powers of attorney or otherwise.

Secondly, the last recital to the powers of attorney expressly states that the Plaintiff had expressed his interest in the said property and had agreed to defend the same at his cost and expenses.

3. There is nothing to suggest that the parties are likely to deal with or dispose of the property only with a view to defeat or delay the decree which may be passed in favour of the Plaintiff.

4. In the circumstances, the Notice of Motion is dismissed.